

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)
) File No. 19-cr-97
) (NEB/BRT)
Plaintiff,)
)
vs.) St. Paul, Minnesota
) November 26, 2019
La Vang,) 3:04 p.m.
)
Defendant.)
)

BEFORE THE HONORABLE NANCY E. BRASEL
UNITED STATES DISTRICT COURT JUDGE
(SENTENCING HEARING)

APPEARANCES

For the Plaintiff: U.S. Attorney's Office
NATHAN NELSON, AUSA
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, Minnesota 55415

For the Defendant: Beito & Lengeling, PA
ROBERT A. LENGELING, ESQ.
Suite 1050
310 Fourth Avenue South
Minneapolis, Minnesota 55415

Court Reporter: ERIN D. DROST, RMR-CRR
Suite 146
316 North Robert Street
St. Paul, Minnesota 55101

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P R O C E E D I N G S

IN OPEN COURT

(Defendant present)

THE COURT: We are on the record. And good afternoon again.

Madam Clerk, you may call the case.

THE COURTROOM DEPUTY: United States of America v. La Vang, Criminal Case No. 19-cr-97.

MR. NELSON: Nathan Nelson on behalf of the United States. Good afternoon, Your Honor.

THE COURT: Good afternoon.

MR. LENGELING: Good afternoon, Your Honor. Robert Lengeling appearing with Mr. Vang.

THE COURT: Good afternoon.

We are here today for sentencing. Mr. Vang, would you come forward to the podium with your counsel, please.

In preparation for sentencing today, the Court has reviewed the presentence report, which was prepared by probation, the relevant provisions of the sentencing guidelines in this case, and the position papers that have been submitted by the defense and by the prosecution. I've also consulted with the probation officer in this case and rereviewed the plea agreement that you signed, Mr. Vang, and the Indictment filed in this case as well.

Mr. Nelson, have you received a copy of the PSR

1 and the addendum?

2 MR. NELSON: I have, Your Honor.

3 THE COURT: And do you have any objections to it?

4 MR. NELSON: No, I do not, Your Honor.

5 THE COURT: And, Mr. Lengeling, have you and your
6 client received a copy of the PSR and the addendum?

7 MR. LENGELING: Yes.

8 THE COURT: And you've read and discussed those
9 documents?

10 MR. LENGELING: Yes.

11 THE COURT: You did note objections in your
12 briefing. What objections are those on which you'd like to
13 be heard?

14 MR. LENGELING: Well, it's not necessarily
15 objections necessarily with the PSR, Your Honor. It's just,
16 quite simply, an argument about disposition here.

17 THE COURT: All right.

18 MR. LENGELING: I think the guideline calculation
19 is appropriate. We're not really arguing about that.

20 THE COURT: All right. You did have an objection
21 to paragraph 38 of the PSR, and I am wondering if you
22 maintain that objection here.

23 MR. LENGELING: Let me just double-check that,
24 Your Honor.

25 THE COURT: Sure.

1 MR. LENGELING: We would withdraw that objection.
2 I mean, I think that just is based on other parts of the
3 investigation that are not necessarily a major part of what
4 we're going to discuss here today.

5 THE COURT: And I think just to be clear, I'm not
6 going to consider paragraph 38 and not rely upon it in my
7 sentence either, so I will let it remain in the presentence
8 report given that the objection has been withdrawn; but to
9 be clear, because it has to do with other parts of the
10 investigation, I'm not going to rely on it in determining
11 sentence in this case. Therefore, I'm going to adopt as
12 findings of the Court all of the factual statements
13 contained in the PSR.

14 I will first determine the guidelines. And for
15 those folks in the gallery, there are sentencing guidelines
16 that apply that are the starting point for me. I consider
17 those guidelines in determining the ultimate sentence, and
18 then -- so this is really a two-part inquiry for the Court.
19 The first is to determine what the guidelines are, and the
20 second is to determine what ultimate sentence the Court
21 imposes.

22 So as to the guidelines first, the first thing I'm
23 going to do is grant a two-level downward adjustment in the
24 offense level for acceptance of responsibility, and,
25 therefore, I determine that the guidelines apply as follows:

1 The total offense level is 10, the Criminal History Category
2 for Mr. Vang is I, the imprisonment range according to the
3 guidelines is 6 to 12 months, the supervised release range
4 would be one year, and the fine range 4,000 to \$40,000, and
5 a special assessment of \$100.

6 Does the Government have any corrections or
7 objections to those calculations?

8 MR. NELSON: No, Your Honor.

9 THE COURT: And, Mr. Lengeling, any objections or
10 corrections to those calculations?

11 MR. LENGELING: No, I don't think that changes
12 anything, Your Honor.

13 THE COURT: All right. And so both parties here
14 have requested something different from 12 to 18 months.
15 The Government asks for an upward variance of 18 months, and
16 the defense asks for home confinement of some sort or
17 probation. I want to hear both of you out on that.

18 I also want to address restitution, so before I
19 hear you out on the variance, I'm going to ask Mr. Nelson
20 the Government's position on restitution.

21 MR. NELSON: Thank you, Your Honor. As stated in
22 the presentence report, after reviewing the Mandatory Victim
23 Restitution Act and the other statute, the Victim and
24 Witness Protection Act, the Government's position is neither
25 of those statutes apply to the particular offense with which

1 Mr. Vang was convicted in this case.

2 The Court would have authority to order
3 discretionary restitution as a condition of supervised
4 release or probation; however, in this case, probation has
5 conferred with the victim's family in this case, who has
6 indicated they do not wish to seek a order of restitution at
7 this time. So at this point, Your Honor, the Government
8 believes restitution is not at issue in this case.

9 THE COURT: All right. So based on there being no
10 request for discretionary restitution by the victim's
11 family, then I will -- if I -- it would be only a term of
12 supervised release, so that's helpful to the Court.

13 Now I'd like to address the variances that you
14 each are seeking, and either one of you can go first.
15 Mr. Vang, at the very end I give you -- I'll also have the
16 victims speak, if the victim and the family want to, and you
17 get the last word here as the Defendant. That's my typical
18 practice.

19 Either Mr. Lengeling or Mr. Nelson?

20 MR. LENGELING: Well, I'm at the podium,
21 Your Honor.

22 THE COURT: Go ahead, sir.

23 MR. LENGELING: Thank you. I'm not sure that this
24 is necessarily a variance that we're requesting. I think
25 probation is available under sentencing options in this

1 case, Your Honor. There's nothing that I'm going to be able
2 to say here today to make the victim's family feel better
3 about what happened here because, frankly, the facts of this
4 case are quite troubling. Same with my client, I'm not sure
5 that there's anything that he can tell either you or this
6 family here today that's going to make him feel better about
7 what happened.

8 There is no restitution request here, Your Honor,
9 because, frankly, there's a civil lawsuit now. And he was
10 just served with it today, and this is going to be going on
11 for some time. No matter what happens here today we're
12 moving on to another stage. So it's unfortunate but also
13 not that unexpected, I guess, Your Honor.

14 So my client's position -- and he'll address this
15 later -- he is greatly remorseful. As I indicated in my
16 filings, when I speak to his friends and family, he's
17 described as such a loving and caring person, but what
18 happened here is clearly not like that. And as I said
19 earlier in my writing, Your Honor, you can be both of those
20 things at the same time and -- you know, and like I said,
21 these are -- they're troubling facts, but when you talk to
22 Mr. Vang, it's less troubling in terms of what's going on in
23 his life now.

24 He can't go back and change what happened, and as
25 much as he may wish to be able to do that, he can't. He can

1 only go forward and prove that he can do better. There's
2 really nothing else he can do. You can't take away the pain
3 that that individual felt, money damages or not, and he
4 lives with that, Your Honor. And it may be small
5 consolation to anybody here listening to me, but he does
6 live with that on a daily basis, and he does come here sort
7 of not just embarrassed, but, frankly, somewhat broken in
8 the sense that he really did -- he broke the trust that he
9 had with these individuals, with this family, not just the
10 patient, but the whole family, and that's not what you are
11 supposed to do when you're here to care for somebody.

12 So, Your Honor, I believe that the good news in
13 this case is that he was very successful in treatment. He
14 has a very -- I guess you could describe it as a glowing
15 review from where he -- where he attended treatment at the
16 Haven in Woodbury. He was an inspiration to peers. That's
17 not always the case that you hear, and, in fact, we have to
18 somewhat expect relapses when there's addiction issues.

19 We are now over a year out from when these
20 incidents took place, and I think the only time we've had
21 any issues with regard to relapse were before the federal
22 matter took place. He was under release conditions in Anoka
23 and had some issues with the UA back in October of 2018, and
24 since that time has had no problems. He's shown himself to
25 be able to live -- when he's given a set of rules, he can

1 live by them and he will follow those rules.

2 One of the concerns I had, of course, is that even
3 if he does get a prison sentence -- even if you were to
4 grant the Government's variance request and give him
5 18 months, it's a relatively short time compared to what we
6 typically see in federal court. Then he's out. Then he has
7 a year of supervised release and we move on.

8 I'm concerned about what happens five years from
9 now, six, seven years from now, and I would not want --
10 certainly he's not going to be working in this field ever
11 again. I mean, that's over, but what I don't want to see is
12 relapse. I don't want to see an individual like Mr. Vang
13 slide back into use issues.

14 I mean, this is an opioid problem that started
15 with pain medication; and as we know, when addiction grips,
16 Your Honor, people will do whatever it takes to get their
17 hands on medications or whatever it is that they're trying
18 to get. Absolutely not an excuse, it's context.

19 And we're also dealing with an individual here
20 that, you know, pardon me for saying so, has struggled over
21 his lifetime with intellectual and cognitive challenges,
22 frankly, and when he saw an opportunity, he seized it here.
23 Absolutely wrong. There's really no excuse for it, and he
24 doesn't make excuses.

25 But as I said in my filings, I'm concerned about

1 having him, after being so successful with treatment in the
2 community, to then put him in a prison situation where he
3 spends his day with untreated drug addicts, criminals, bad
4 influences, whatever it may be. That's -- that's how things
5 can backslide. Now we'd expect that while he's in the BOP,
6 he's not going to be using, obviously, he'll be in custody
7 if that were the case. It's when he gets out. And I think
8 proving yourself in day-to-day life, whether that's in
9 treatment or just living with -- in a sober life, is much
10 more successful than doing that in a custodial situation.

11 Prison in this case is truly just a punishment,
12 and I can understand where the Court and certainly the
13 family here today would want to see punishment given the
14 facts here, but, again, I think taking into account the
15 overall context of my client's efforts, I don't know that
16 that's necessarily the right approach either.

17 Home detention may seem easy, but it's not
18 necessarily easy, as it has been recognized by federal
19 courts. I mean, it's clearly a restriction on liberty.
20 It's not cheap. It's accountability is really what it comes
21 down to. He will have to abide by rules of no use,
22 potential testing, whether he's on probation, supervised
23 release, whatever it may be. He's not out of the woods on
24 this thing. I mean, federal probation is strict. And if
25 that's what he has to do, he can -- he'll have to live by

1 those rules or he goes to prison for sure.

2 And so, Your Honor, another policy I think
3 behind -- well, this is what I see sometimes. I hate to
4 make an analogy to something less serious than this, but in
5 state court often we see staggered sentencing where you will
6 randomly impose -- and I'm not asking you to do this, but
7 I'm using it as an analogy -- there's home detention,
8 monitoring things that are somewhat random and imposed upon
9 a person in order to break up habits, break up routines and
10 make sure that people are, in fact, being accountable. I
11 think Mr. Vang here has shown that he doesn't necessarily
12 have -- we haven't had issues with him relapsing back into
13 use again, but we don't want to see that happen. If he does
14 get into routines, home detention is a way to break up those
15 routines.

16 Frankly, I don't think that's an issue with
17 Mr. Vang, however. He does have a large support system and
18 I -- I'm going to say it's about half the room, maybe not
19 quite, but about half the room. Much more people showed up
20 here today than I anticipated, in fact, but they're all here
21 supporting Mr. Vang, because as bad as it was what happened
22 here, these people love him and they see that there's a very
23 good side to Mr. Vang, and they want to see the best for
24 him. And so when he is -- he's welcomed with these people
25 whatever happens.

1 I am asking you, Your Honor, to place him on that
2 probation sentence with that intermittent home detention. I
3 don't know if probation can accommodate more of a random
4 schedule with that, but that would be my request.

5 His income right now, Your Honor, is minimal.
6 Obviously now he'll have to defend a civil suit, but he'll
7 deal with that. Obviously that's not what we're here for
8 today. But whatever money he has, Your Honor, is -- it's
9 not much, and so I'm asking the Court to not impose a fine
10 here, have the money available for him to do any further
11 treatment that he may have to do, and be able to answer to
12 the civil suit.

13 Other than that, Your Honor, if the Court does
14 impose a sentence here that includes custody time, I would
15 ask for him to be able to self-surrender. He has some
16 things he'd like to take care of in his life before he does
17 that. Typically I would ask for two to three weeks. We're
18 sort of in that strange holiday season, so I don't know how
19 that would play in with getting a designation. My client
20 tells me that he will do whatever is required of him to
21 cooperate with making that designation happen if that's
22 where the Court goes with this. I don't think you'll see
23 any problems with him arriving on time wherever that may be.
24 I would anticipate that that would be a local place.

25 He would, in fact, ask for a recommendation of

1 somewhere in Minnesota. I guess Sandstone. I don't know if
2 he -- that may be even higher than where he would end up,
3 but certainly he would want to stay as close to home as
4 possible.

5 So I think, Your Honor, for purposes of the
6 record, I can address the Government's -- any objections to
7 the Government's requests later, unless you want me to do
8 that now?

9 THE COURT: Yes, I'd like you to do that now --

10 MR. LENGELING: Okay.

11 THE COURT: -- since you know what it is.

12 MR. LENGELING: Sure, yeah. As we all know, the
13 Government is asking for an upward variance to 18 months,
14 and I filed an objection. And I think the Court in a
15 procedural manner would have to find that the guidelines are
16 somehow unreasonable in this case, and I don't know that
17 that's the case. I think that they are quite reasonable and
18 have taken into account issues with regard to abuse of
19 trust, vulnerable victim, those sort of things, and it did
20 increase his potential guideline sentence here. And I think
21 that that's -- we didn't object to that. We agreed that
22 those were appropriate enhancements that would raise his
23 potential sentence here. They do apply.

24 But in order to make a variance upward, I think
25 you would have to find that that's not enough somehow and

1 that somehow the Guideline Commission decided that -- came
2 up with a number that's too low. I think that those very
3 factors that the Government cited here have already been
4 accounted for, so I think the guideline range of 6 to
5 12 months, or in my argument potentially home confinement
6 with probation, is appropriate as a guideline range, and so
7 I think that the variance should be denied, Your Honor.
8 Thank you.

9 THE COURT: Thank you. I'll have you both sit
10 down, and I'm going to hear from Mr. Nelson and any victims
11 who wish to speak. Mr. Nelson.

12 MR. NELSON: Thank you, Your Honor. Despite the
13 fact that Mr. Lengeling and I are advocating for different
14 end points, the candid -- to be candid with the Court, I
15 agree with much of what he says. I struggled with this, as
16 I imagine the Court will, because there's a lot of factors
17 to be weighed here, and I, I think similar to the Court,
18 have to take into account the positives of the history and
19 the characteristics of Mr. Vang.

20 As Mr. Lengeling pointed out, I understand
21 Mr. Vang himself is battling opiate addiction. I understand
22 that he, you know, has some traumatic issues in his
23 childhood. He self-surrendered his nursing license pending
24 this case and he has done well at least since coming over to
25 federal court on release. Negative drug tests, voluntarily

1 checked into therapy, and treatment and received, as
2 Mr. Lengeling indicated, a glowing recommendation from his
3 aftercare provider. But all that said, even considering all
4 those things as I have and have wrestled with them, to me
5 they simply don't offset what, in the Government's view, are
6 the truly egregious facts of this particular case.

7 And as Mr. Lengeling said, I am requesting a
8 variance, and it is on the grounds that I think the
9 guidelines for this offense do not fully account for the
10 type of conduct that occurred in this case. The guidelines
11 for this offense cover the obtaining of a controlled
12 substance by fraud. Now, in other cases, that could easily
13 be writing a forged prescription and presenting it to a
14 pharmacy, or lying to a doctor to get a medication to which
15 you were not entitled, but what those guidelines do not
16 account for is the harm on another human being that was
17 visited in this case. The offense is called obtaining a
18 controlled substance by fraud, but at -- in substance here,
19 what we have is a rather egregious case of elder abuse, and
20 it is an abusive conduct that took place here.

21 Mr. Vang took medications to which he wasn't
22 entitled, to be sure, and for that, the guidelines have
23 determined a base offense level of 8 is appropriate. But
24 what the guidelines do not account for is that he took them
25 out of the mouth of someone who was dependent on them.

1 THE COURT: They do account for vulnerable victim,
2 do they not?

3 MR. NELSON: Well, actually I disagree with that,
4 Your Honor.

5 THE COURT: Go ahead.

6 MR. NELSON: In my view, vulnerable victim refers
7 to the characteristics, the nature, and the facts of the
8 person being victimized. And the abuse of trust accounts
9 for the role which defendant occupied and which he committed
10 this crime, but they don't account for the -- the harm,
11 frankly. I think the fact that this was a harmful conduct,
12 physically harmful, caused pain, suffering over an extended
13 period of time are not accounted -- is not accounted for.
14 The vulnerability of the person who's harmed is what's
15 accounted for by that two-level enhancement, but not the
16 extent or nature or character of the harm which she suffered
17 over the four months in defendant's care.

18 So I disagree. I think that vulnerable victim is
19 really looking to the characteristics of the person harmed,
20 but not the harm itself. And for that reason, I think the
21 guidelines are simply inadequate to address the type of
22 conduct that we see here, where it is essentially a case of
23 elder abuse.

24 And in this case, not just that it was a case of
25 elder abuse, but it's a case that went on for months, that

1 the family was left searching for answers, and, in fact,
2 themselves were subjected to suspicion as to whether they
3 were the ones who were, you know, causing this problem by
4 their own doctors. In the four months they searched for
5 answers while the victim was in pain, was suffering is
6 simply just not accounted for here in these guidelines, and
7 for those reasons, I am asking the Court to find that the
8 guidelines don't account for this level of conduct and to
9 vary upward.

10 Certainly the other thing to point out is the
11 Eighth Circuit has held the Court can also vary upward based
12 on facts that are accounted for in the guidelines if the
13 Court makes a sufficient record as to why the variance is
14 appropriate.

15 And here, to me, the imbalance of power, as I
16 indicate in my sentencing memorandum, between the Defendant,
17 who I think the family will explain to you here, they
18 trusted implicitly. I think they were probably in a
19 situation where at the time before they figured out what was
20 happening, the Defendant was the last person they would have
21 suspected, because they trusted him so implicitly and they
22 trusted him to look out for the victim's best interests and
23 to look out for her health, and certainly not to engage in
24 conduct in which the Defendant was essentially letting the
25 person who was under his care suffer for months and to leave

1 them without any indication or knowing as to why.

2 And that just wide gulf between the power and
3 balance that the Defendant had by virtue of that trust that
4 was placed in him and the victim who really was in no
5 position, even if she hadn't trusted the Defendant, to
6 realize what was going on and to catch what was going on.

7 She had come off of two surgeries during which she
8 had had an intervening I believe it was blood infection or
9 sepsis, severe complications, had a second surgery, and then
10 was prescribed these controlled substances to help deal with
11 what I can only imagine was the significant pain that came
12 with the aftereffects of those surgeries. And she was
13 deprived of those medications, suffering, and in their stead
14 was given essentially allergy medication, which, as the PSR
15 indicates, in conjunction with her other medication regimen,
16 left her in a condition where she was drowsy, lethargic,
17 could easily have had slips or falls and harmed herself
18 tremendously or even fatally in this case. Now thankfully
19 that didn't happen, but that was part of the danger that was
20 posed by this conduct.

21 This fact that the Defendant had a position,
22 had -- was part of a profession, a calling, which is -- in
23 which people are called to give care, to look out for the
24 best interests of another and yet betrayed that central
25 tenet of his profession in order to pursue his self-interest

1 and left his own patient to suffer really is what I keep
2 coming back to are the egregious facts of this case that
3 call for a more significant custodial sentence than the
4 guidelines require in this matter.

5 THE COURT: Mr. Nelson, do you know if the
6 position of trust and special skill application, that
7 guideline application upward adjustment would apply if the
8 Defendant here were a personal care assistant rather than
9 one who holds a nursing degree?

10 MR. NELSON: You know, I don't know. I think it
11 can be by virtue of a skill or their role. I believe it
12 would apply in either case, that's my -- not having looked
13 into it here, I believe it would apply in either case given
14 the -- again, the trust, the person is let into their home,
15 is allowed to move about freely, because the understanding
16 is -- societally the understanding is this person will look
17 out for me, this person holds a duty where they will care
18 for my best interests. I think it would apply in either
19 case, but I haven't researched that, Your Honor, so I don't
20 know.

21 THE COURT: Thank you.

22 MR. NELSON: All those factors together,
23 Your Honor, I think call for the Court to impose a
24 significant custodial sentence in this case, and I do agree
25 some of that is punitive. It's to express the seriousness

1 of this conduct, and to send a message that the law and the
2 United States and this Court take this type of conduct very
3 seriously.

4 I think those -- all those factors are things that
5 the Court should consider. I think even in light of some of
6 the mitigating factors that Mr. Lengeling pointed out, they
7 just don't offset the egregious nature of the offense in
8 this case, and, therefore, I do ask the Court to impose a
9 custodial sentence of 18 months.

10 Would the Court like to hear from some
11 representatives of the victim's family now?

12 THE COURT: I have. My understanding is that
13 there are a few. I'm not sure how many. I've indicated
14 that I'm welcoming hearing from all of you, and have tried
15 to indicate a bit of a time limit only -- only because we're
16 in court and that's the way that court goes, not because I'm
17 not interested in hearing what all of you have to say. So
18 with that, Mr. Nelson, I'll just have you introduce these
19 folks.

20 MR. NELSON: Sure. Actually everyone can come up
21 who would like to be present, and, Your Honor, it will just
22 be a minute. I believe the victim is being brought up as
23 well to at least be present. I don't believe she'll speak
24 directly.

25 THE COURT: Thank you.

1 MS. SHAW: She's not going to be able to fit.

2 THE COURT: We can't move it.

3 MS. SHAW: Good afternoon, Your Honor.

4 THE COURT: Good afternoon.

5 MS. SHAW: Do I need to lower this?

6 THE COURT: Yes, and speak right into it is just
7 fine. Mr. Nelson can help you. Ma'am, I'm going to have
8 you come forward just a bit so you can face me if you wish.
9 Is that good? That's all right for her? All right.

10 MS. SHAW: Okay. I would like to introduce my
11 family to you. I'm the youngest of three daughters. My
12 mother LaVonne Borsheim, the victim present; my father,
13 Roger Borsheim, husband of 67 years. Today we have my
14 sister, Pam Hultgren, who is the middle child; my sister --
15 older sister, Susan, to her right.

16 THE COURT: And Susan's last name?

17 MS. SHAW: Peterson with an s-o-n.

18 THE COURT: Thank you.

19 MS. SHAW: And then we have my niece Elizabeth
20 Hultgren, and then my daughter Emily Prideaux.

21 THE COURT: And your name?

22 MS. SHAW: Kari Shaw, S-H-A-W.

23 THE COURT: And how do you spell Kari?

24 MS. SHAW: K-a-r-i.

25 THE COURT: Thank you. You may proceed.

1 MS. SHAW: Thank you. So I would like to start
2 with my mom's statement. It's a little rough writing here,
3 but I'm going to try to make it through. These are words
4 from my mom.

5 Your Honor, I am the victim, LaVonne Borsheim. My
6 life has been shattered by the deception of my former nurse
7 from LifeSprk Home Healthcare. I am tormented every day in
8 fear not being able to sleep and have tried so hard to
9 regain my strength, but have only grown weaker. I'm solely
10 dependent on my husband and my family for my care.

11 I haven't been able to attend any of the functions
12 I normally enjoy and want to go to. I've missed out on so
13 much. I could have lost my life due to La Vang giving me
14 medications I wasn't supposed to have yet, left me suffering
15 without the medications I was supposed to have. He took
16 away my trust and confidence in the healthcare industry
17 forever.

18 Your Honor, I'm asking that he serves the prison
19 time and the maximum time you can give to him, time to think
20 about what he did to me and my entire family. I will never
21 get back the time, and I won't enjoy -- and -- I won't get
22 back, and the time I won't enjoy in my future as I'm left to
23 live in this body the rest of my days to suffer from the
24 results of the wrongdoings.

25 To La, what you did was cruel and wrong. I am

1 praying for you that you will learn from this and somehow
2 find a way to redeem yourself.

3 The next statement I would like to read is from my
4 dad, Roger Borsheim.

5 Good afternoon, Your Honor. The following
6 statement is from our dad, Roger Borsheim, my mom's only
7 love of her life of 67 years of marriage. I'm not real sure
8 where to begin as this entire ordeal has taken so much from
9 our lives. We are truly looking forward to getting on to
10 some normalcy after today. From his first visit bowing
11 before me as he entered the door, as he did every day,
12 perfectly camouflaged with his medical equipment, scrubs,
13 and identification from LifeSprk Home Healthcare. He gave
14 us gift certificates for restaurants, along with medical
15 equipment. We didn't know where it was coming from. Now we
16 understand it was his way to gain trust and keep us close to
17 him. Who would think anything bad of a guy who was so nice,
18 giving gifts. This was the start of his deceptive ways and
19 capitalized on my position of being old and naive. I
20 trusted him and everything he was doing with placing meds in
21 her weekly dispenser, not thinking for a minute that what he
22 was take -- that he was taking advantage of us in his role
23 of LifeSprk nurse, and truly what he was doing was killing
24 my wife.

25 The few things we have been able to enjoy due to

1 my wife's disability have been going to church every Sunday,
2 along with our senior group every Thursday, having neighbors
3 over for coffee and fellowship and being involved in our
4 community and charities. Since this has all taken place,
5 LaVonne is entirely too weak, never has regained the
6 strength, as he had given her so much medication that she
7 was sleeping over 90 percent of the day. Our day is spent
8 now with me dressing her, feeding her, bathing, doing her
9 hair, doctor appointments, prescription refills, only to
10 restart another day.

11 He has stolen more than meds. He has stolen our
12 life, and our lives with what we had left to enjoy. We've
13 missed not only our church family but our own family
14 get-togethers as LaVonne is too fragile and weak to have
15 attended events. This is only because he felt his needs and
16 life were more important than ours.

17 We have felt completely violated that someone we
18 had invited into our home could do this. I have worked so
19 hard to help my wife as her caregiver, and I took the
20 medication as such a vital part of my responsibility and
21 here someone was working opposite of me.

22 It is a terrible thing when someone has no regard
23 for someone that is in great pain and depends on the
24 medication to live life somewhat pain-free. It is also
25 heartbreaking to watch someone you love lose hope for living

1 and to hear her praying every day that God would please let
2 her die as the pain was unbearable. I at one point told my
3 girls that Mom was diminishing and that she was growing
4 weaker by the day and afraid she wasn't going to survive
5 much longer.

6 I am certain there are other victims that have
7 suffered at the hands of this nurse. I want the
8 consequences of his actions to be great enough that others
9 will think twice before feeling they can prey on innocent
10 people like my wife and I were. To see my wife in pain for
11 the past five months -- for those five months, it took a
12 vital thing from us, faith, trust, and hope.

13 So today, Your Honor, I'm asking that you impose
14 the highest level of prison time that is possible.
15 Probation I feel is not enough because he, in fact, has put
16 us in a prison of never being the same again. We no longer
17 enjoy the safety and security we once knew. How do we ever
18 trust full-heartedly a nurse again, someone who took an oath
19 to do no harm? I believe that with you giving him the
20 maximum sentence that you, Your Honor, will shine a huge
21 light on our State of Minnesota on how seriously we take
22 this crime, especially with our current soaring opiate
23 crisis.

24 Being a Christian man, I've had to look at the
25 forgiveness factor in all of this, as I am called to be like

1 Jesus, and reminded of the verse in Galatians 6:7, you reap
2 what you sow. There are consequences for what we do.

3 In closing, I love my wife with all my heart, just
4 like the day I married her, and I took a vow before God that
5 I would love her in sickness and in health till death do us
6 part. I'm keeping that promise. I only wish that what
7 years we have left on this earth would not have been stolen
8 like they were from someone so selfish. Instead, she is
9 left to live like a prisoner in a weakened and extremely
10 fragile body. Thank you, Your Honor, for allowing me to
11 voice my true heartfelt pain and brokenness.

12 And now I would like to call my sister.

13 MS. PETERSON: Good afternoon, Your Honor.

14 THE COURT: Good afternoon.

15 MS. PETERSON: I'm Susan Peterson, the first-born
16 daughter of Roger and LaVonne.

17 MS. PAM HULTGREN: And I'm Pam Hultgren, the
18 middle daughter.

19 THE COURT: Could you spell Hultgren for me,
20 please?

21 MS. PAM HULTGREN: Hultgren, H-u-l-t-g-r-e-n.

22 THE COURT: Thank you.

23 MS. JOHNSON: We come this afternoon as a team
24 because Pam and I have been a team since this whole thing
25 evolved. We come once a week to help with cleaning,

1 laundry, mom's personal needs. And just to paint a picture
2 of my mom, she was the life of our home and our family.
3 We'd call her and say, Mom, we're coming over tonight to
4 bring dinner and we're going to clean, and she would be
5 excited to have us girls come. By the time we'd get there,
6 she was so drugged we couldn't hardly wake her up to have
7 dinner with us, to talk, and, I mean, it was sad.

8 Pam and I, we do what we can, but since -- our
9 lives have been changed with -- our lives and our parents'
10 forever from LifeSprk's nurse, La Vang, who entered our
11 home. We assumed that he was there to help my mom get
12 better and stronger, but instead he stole her life, her
13 trust, betrayal, and so we're just --

14 MS. PAM HULTGREN: I just want to share one piece
15 too --

16 MS. JOHNSON: Sure.

17 MS. PAM HULTGREN: -- about one glimpse of what
18 our life looks like. In the summer, we have an annual
19 garage sale that my mom heads up, because she's always been
20 a big piece of that and loves it, and when we had our last
21 garage sale, she was so tired and so sleepy and drugged that
22 she had to sleep. She had to -- she said, I'm going to have
23 to go and lay down when she was normally out there helping
24 us, and so the whole day she slept away. At dinner time we
25 came in to wake her, and I was in the kitchen getting dinner

1 together, and Sue went to wake her and she was shaking her
2 and yelling her name and she wouldn't wake up. And I
3 thought she was gone, had died.

4 Sue finally got her up and picked her up and she
5 fell into the wall, and she was so drugged that we thought
6 we were going to have to take her to the hospital that
7 night, but we finally got her to sit up. But our worry and
8 our concern was that had she passed away that night, we
9 never would have ever thought it was the nurse that was --

10 MS. JOHNSON: Drugging her.

11 MS. PAM HULTGREN: -- supposedly doing her good,
12 and instead, he was harming her in a way that we -- she
13 could have lost her life that night. She had so much
14 medication in her.

15 So in closing, Your Honor, we thank you for
16 letting us share this statement together and ask that you
17 give La Vang, the LifeSprk nurse, the maximum sentence that
18 you're able to impose, and make a statement to the rest of
19 all the nurses and healthcare industry out there that if
20 they're ever thinking of stealing meds from a patient, that
21 they would realize what would be lying ahead for them.

22 THE COURT: I thank you both.

23 MS. JOHNSON: Thank you.

24 MS. PAM HULTGREN: Thank you.

25 MS. ELIZABETH HULTGREN: Thank you for this time,

1 Your Honor.

2 THE COURT: Good afternoon.

3 MS. ELIZABETH HULTGREN: My name is Elizabeth,
4 and -- I'm sorry -- I am Roger and LaVonne's granddaughter.

5 THE COURT: And your last name is Hultgren as
6 well?

7 MS. ELIZABETH HULTGREN: Yes.

8 THE COURT: Go ahead.

9 MS. ELIZABETH HULTGREN: Since this ordeal began,
10 our family's lives, as you can see, has been irrevocably
11 changed. I have watched the weight that this has caused for
12 my grandma and my grandpa. I call them nana and papa, all
13 of the grandkids do. They have carried this weight, sudden
14 fear of strangers, the stress and confusion, the physical
15 and emotional turbulence that this has left not just in
16 their home, but across our entire families. We're a close
17 family, and even though we try to come alongside them to
18 help carry this weight, no one experienced this quite as
19 fully or to the depth that they have and the loss of trust
20 that it has cost them.

21 As a teacher, I understand professional conduct
22 and how essential it is that those in your care be able to
23 trust you and know that you have their best interests at
24 heart.

25 Prior to this experience, we all emphatically

1 believed that the doctors and the nurses caring for nana had
2 this professional conduct and believed that Mr. Vang had
3 her's and papa's best interests at heart. This was not an
4 isolated event. He made months of choices to return and to
5 continue the abuse, and going back and taking advantage of a
6 vulnerable adult goes against every professional conduct
7 there is, whether it be for a nurse or just as a person.

8 I'm engaged to a wonderful man who loves my
9 grandparents like I do and who also shares my nana's love of
10 Scrabble, and sharing these memories and having them both
11 there for my wedding truthfully I didn't think was going to
12 happen through this whole experience.

13 I am not always convinced -- or I was not
14 convinced that we would get this time with her today. She
15 is here because the healthcare system -- or she is not here,
16 excuse me, today because the healthcare system held her up.
17 She is here because of God's grace. She survived La Vang,
18 but she could have just as easily not. I ask you to use
19 this opportunity today to show nana and papa, as well as the
20 other families who have been similarly affected, that
21 professional conduct and trust do still matter in our
22 healthcare system as well as nursing.

23 THE COURT: Thank you.

24 MS. PRIDEAUX: Hi there. I'm Emily Prideaux, the
25 other granddaughter. Your Honor, thank you for hearing our

1 family's story today as we've come to the closing of one of
2 many long and arduous chapters that continues to affect us
3 each and every day. My mother and I both live on the West
4 Coast in California and flew all the way here to be part of
5 this today, but that doesn't account for the many years and
6 months that we've watched her suffer, and we have also
7 suffered because of this.

8 My grandparents sit aside from me here today with
9 the support of their daughters, the grandchildren, and also
10 Elder Voice behind us, who have also been touched by this
11 story, as well as all of the victims that they have been
12 alongside.

13 It hurts to think that my grandmother is not the
14 only person who has fallen victim to someone else's poor
15 choices and abuse because there are so many others today
16 that have dealt with this as well.

17 I do stand proud alongside my family to defend the
18 matriarch of our family, who has suffered insurmountable
19 levels of pain, sadness and misfortune. You may not have
20 27 years of beautiful memories with my grandparents like we
21 all do, but I can share with you that they are the most
22 precious and loving people that are so undeserving of the
23 abuse that they have endured because of La Vang.

24 My grandmother has always been a giving, faithful,
25 and selfless woman who would give anyone a second chance no

1 matter the cause. Even after years of seeing the drug abuse
2 and legal troubles that my own father has put my family
3 through, she still found a way to be forgiving and
4 understanding of those who struggle with substance abuse.
5 It's a serious issue, and it's not something to undermine;
6 however, those that have done this, they deserve and need to
7 pay the price for what they've done.

8 She's always found a way to show love and support
9 without holding any grudges. I can speak firsthand to this
10 truth as I've seen it over the course of my entire lifetime.
11 As a woman of faith and now as part of the elderly
12 community, she has many times been unaware of the war on
13 drugs in this state, this country, and our world today.
14 Additionally, her decline in her mental and physical health
15 has influenced her ability and awareness towards those who
16 could possibly take advantage of the situation, especially
17 in the comfort of her own home.

18 Home healthcare was created to help the efficiency
19 of needs for outpatient visits and to increase comfort for
20 those who are unable to constantly be in and out of medical
21 offices and emergency rooms. Unfortunately, that system
22 worked against her, and the negligence of many parties
23 involved. Ultimately, that has led us to this hearing today
24 in hopes that La Vang will pay the price for his
25 unforgivable abuse, federal and state-side crimes.

1 To be scared to sleep in the home where she still
2 lives with my grandfather, the very home that she raised all
3 three of those children in, is heartbreaking. La Vang took
4 peace and comfort from her and my entire family to feel safe
5 in a place that she called her pride and joy for over
6 50 years.

7 In a matter of a few short months, her entire
8 world was flipped upsidedown, and the effects have bled into
9 each and every one of our family's lives. Sleepless nights,
10 emergent hospital stays, and many moments of thinking we may
11 leave her due to his theft, deception are just a short list
12 of the trauma we've experienced throughout the years. Both
13 here in Minneapolis and across the country, we have suffered
14 greatly.

15 Being away from the scene myself and finding out
16 what has transpired without any idea of the months of
17 torture she had incurred during this time also led to
18 hearing and watching her deteriorate became such a burden by
19 the abuse that she no longer wanted to live. The fear and
20 unease she has experienced and still experiences today is
21 insurmountable, while the rest of our family also deals with
22 this day-in and day-out.

23 My partner and significant other is an MD who
24 makes house calls and is a part of home healthcare, has not
25 even had the opportunity to meet my grandparents, but stands

1 beside them knowing that he takes full, great care of other
2 people in their homes and can't imagine anyone doing this to
3 someone, especially like them.

4 My grandmother has always had a good gut instinct
5 about people, yet was completely fooled and deceived by this
6 person's ability to manipulate and take advantage of her and
7 our family's trust. His oath to care for and to keep the
8 best interests at the forefront of his responsibilities was
9 reversed, and, yet, he decided to use that as an opportunity
10 to take advantage of naive and precious godly people.

11 The lies, the deception, and all of La Vang's
12 manipulation will never be repaid the way it should be.
13 Life behind bars wouldn't do justice, and that my
14 grandparents and other victims deserve justice. Four years
15 doesn't even come close enough. What we're asking for
16 doesn't do any justice.

17 As a daughter of an addict who has been in and out
18 of the system for over four years, I can relate to
19 rehabilitation as being part of turning someone's life
20 around; but in this situation, I don't feel that
21 rehabilitation will ever work for a person of his caliber.
22 His ability to take advantage of such sweet people is
23 appalling. I would stand here to defend anyone, not just
24 them, knowing that they have suffered throughout far too
25 much.

1 He has stolen years from our life and from their
2 life especially. He's caused great detriment to the
3 physical, emotional, and mental health for each member of my
4 family, especially for those across the country who can't
5 physically be here every day to help.

6 Not only does the State of Minnesota need to
7 address and make an example of this case, but these
8 punishments should definitely be enhanced and every person
9 that finds no remorse for their actions need to be held
10 accountable.

11 And to La Vang who has affected more of us than he
12 will ever realize from across the country, all the way here
13 to Minneapolis, his story and reputation will forever be
14 tarnished no matter what comes his way. He gets to live the
15 rest of his life with this burden. He will never forget the
16 stolen years from our family, the burned bridges and trust
17 for the healthcare system, or any hospital, pharmacy, or
18 otherwise. He should never have been given a nursing
19 license in the first place to care for anyone with such poor
20 intentions, and what he owes us is to be locked up and away
21 from our family.

22 We are able -- we are not able to sleep
23 peacefully, and it would be nice to know that he is far away
24 from us and locked in a cell, paying full-time behind bars
25 where he belongs.

1 In closing, Your Honor, please take into
2 consideration all of the hours, the weeks, the months and
3 years that our family has suffered. Please help us find
4 peace in our lives to give my grandparents their later years
5 in love and light rather than deteriorating in fear from the
6 repercussions that come alongside the gang affiliations and
7 dangers that La Vang has put them into. Give him the full
8 four years, give him everything you're able. Lift this
9 weight off of our shoulders and let us live peacefully
10 without him and his pathetic excuses in our shadows. Our
11 ultimate goal is to see his hands tied behind bars being
12 reminded of his wrongdoings, praying that he can somehow
13 find it in his soul to never allow this to happen to anyone
14 ever again.

15 Thank you for your time. I pray you hear our
16 cries for help as he has harmed far more than anyone ever
17 deserves. Thank you.

18 THE COURT: Ms. Prideaux, could you spell your
19 name, please?

20 MS. PRIDEAUX: Emily, E-m-i-l-y; last name
21 P-r-i-d-e-a-u-x.

22 THE COURT: Thank you.

23 MS. PRIDEAUX: Yes. Thank you.

24 MS. SHAW: Thank you.

25 MS. PRIDEAUX: I think my mom has a few more words

1 to say before Elder Voice comes up.

2 THE COURT: Ms. Shaw.

3 MS. SHAW: Thank you, Your Honor, for giving us
4 this time. I know that it's long with all of us talking,
5 but we tried to keep in mind the time limit, and I just -- I
6 really felt it important for an organization such as Elder
7 Voice to come along. I found an organization here in the
8 Cities. I am from California -- I mean, not from, but I
9 live there. So I've invited Jean Peters, who is the
10 president of Elder Voice, to come and share some -- and I
11 will give the last voice. I will give the last word.

12 THE COURT: One moment. I'm going to allow brief
13 comments. Just respectfully, you weren't on the list, and I
14 want to make sure that this is tied to the impact on the
15 victim, which is what victim impact is all about. So --

16 MS. PETERS: Right.

17 THE COURT: -- I'll allow a couple of minutes and
18 allow any objections that the Defendant might want to impart
19 as well because we had no notice of your coming.

20 MR. LENGELING: Well, Your Honor, I would just
21 under Rule 60 object. I want the family to be heard, but I
22 think this is going past Rule 60.

23 THE COURT: Right. I'm inclined to agree, so very
24 briefly.

25 MS. PETERS: All right. Thank you. I'm Jean

1 Peters. I'm president of Elder Voice Family Advocates.
2 We're a nonprofit organization advocating for the protection
3 of elders and vulnerable adults. I'm also a nurse
4 practitioner, a registered nurse.

5 Our sympathies with the family and the thousands
6 of elders and vulnerable adults who are easily targeted for
7 criminals and addicts to steal opioids. It must be
8 remembered that many older adults often suffer from
9 cognitive loss that inhibits their ability to express their
10 pain and ask for help.

11 THE COURT: I'm sorry.

12 MS. PETERS: And -- I'm just -- one more --

13 THE COURT: That's all right. No.

14 Counsel, I'd like you to approach.

15 (Sidebar discussion off the record)

16 THE COURT: Ms. Peterson, I know you have an
17 important -- it's Peterson; right?

18 MS. PETERS: It's Peters.

19 THE COURT: Peters. I'm so sorry.

20 MS. PETERS: Yes.

21 THE COURT: I know you have an important role, I
22 know you have an important role to play in society at large.
23 This is victim impact, and some of what you say has to do
24 with folks who aren't before the Court today, and so I can't
25 allow your testimony here, but I appreciate your presence.

1 Thank you.

2 MS. PETERS: Thank you, Your Honor.

3 MS. SHAW: Okay. With that being said, my name is
4 Kari, the youngest daughter. I'm grateful to be here,
5 Your Honor, and thank you for letting me. I decided to be
6 the last, so I'm grateful to have our mom still with us
7 today. Last summer, my dad called and said Mom is
8 diminishing and she was praying daily for God to let her die
9 as she just could not live with the excruciating pain she
10 has now -- she was now experiencing and said I cannot live
11 like this another day. To hear this broke my heart and
12 thought if only she had something to look forward to, so I
13 kept telling her that she needed to stay around so she can
14 get back out to my house in California.

15 You see, every winter my parents have been
16 enjoying winters with me; and since this all took place,
17 they haven't yet to return and probably won't. She's
18 entirely too fragile in her weakened state, so the
19 likelihood of ever enjoying them again at my home has been
20 stolen from me. It's left a huge impact.

21 One only knows of the pain she's in if you have
22 experienced it. I was diagnosed four years ago with the
23 same disease, and I've just started my journey. The only
24 way to describe this pain is large shards of glass inside
25 your body so that even at the slightest bit of movement, you

1 feel it's -- as though it's ripping every tendon and muscle
2 in your body. So sometimes those pain medications, not
3 sometimes but all the time, they have worked to just
4 alleviate and take the edge off that pain.

5 My Mom would not survive shoulder replacement
6 surgery, so has depended on those medications to just keep
7 her balanced enough with staying alert, but yet out of pain.
8 To see how hard my dad works to keep her going every day is
9 remarkable. My heart breaks for both of them as they have
10 had so much stolen from them aside from this medication
11 abuse. You can't purchase time.

12 Since the day this happened, I have dedicated my
13 days and nights the past year, putting my job aside, to
14 research and help with anything and everything I could do to
15 get us here to this place today, hoping to find some justice
16 for both of my parents. I have read and have met addicts
17 there that are in and out of treatment their entire lives
18 using addiction as excuses for their actions, but not
19 suffering enough consequence for them.

20 There's not enough time that will ever -- that he
21 will ever do, nor enough money to buy the time we have lost
22 with our mom. She doesn't get the choice to redo her life
23 like Vang can, he can choose to make other decisions, nor
24 get the years on this earth that he will, the chance to
25 enjoy more laughter and fun with our family like he will

1 enjoy with his family.

2 Your Honor, I'm asking for the maximum sentence as
3 this can help to send a loud message to those out there that
4 think they can continue to abuse, lie, and steal from our
5 most precious vulnerable and elderly.

6 Let's remember the first time he stood before the
7 state judge, he was able to choose what he wanted for
8 conditions of his release, yet violated that by yet again
9 trying to get by the system, so clearly does not -- so
10 clearly he does not take what he did seriously enough to be
11 afraid of any consequences.

12 By giving him the maximum sentence, we send a
13 strong message out there and hopefully will save many others
14 from the hands of someone who took the oath he did to cause
15 no harm.

16 Thank you, Your Honor, for giving me the chance to
17 share with you today the impact this has left on my life and
18 my family's. I appreciate the extra moments you've given
19 us. My mom's life matters, it really does, and my -- both
20 of my parents to see the love of 67 years, it's pretty rare
21 these days. I hope to take what happened to our mom and use
22 it to help them make a difference in this world.

23 Let me leave you with this quote. A friend of
24 mine, Denise Brown, the sister of Nicole Brown Simpson, who
25 I traveled with and privileged to have traveled with for six

1 years speaking on domestic violence, not knowing that elder
2 abuse I would be facing years from then, she left me with
3 her quote today. When our time on earth is through, I think
4 that if there is a heaven or hell, we will be asked to pay
5 some day, not just for what we did, but for what we didn't
6 do. Don't think that there is nothing we can't do.

7 Thank you.

8 THE COURT: Thank you, Ms. Shaw. Thank you.

9 Mr. Nelson, would you help them go around the
10 table to be seated?

11 MR. NELSON: Yes.

12 THE COURT: Thank you. Thank you very much.

13 Mr. Vang, before I impose sentence, is there
14 anything that you wish to say on your own behalf, sir?

15 THE DEFENDANT: Yes, I do, Your Honor.

16 THE COURT: Go ahead.

17 MR. LENGELING: One second, Your Honor. He had
18 prepared a statement, Your Honor.

19 THE DEFENDANT: I'll make it short. First and
20 foremost, I want to start by saying I'm truly sorry for the
21 pain I caused for the victims and the victim's family. I do
22 not ask for forgiveness. I was supposed to be a person of
23 trust, protection, and knowledge for this victim, yet I was
24 not. I truly caused pain and suffering for this victim and
25 her family. To this day I regret my actions. I wish to

1 turn back time to prevent the pain and suffering I caused to
2 the victim and her family. I pray that my actions will not
3 cause any distrust provided by other healthcare
4 professionals to the victim and her family. I'm working and
5 reflecting on myself every day in order to prevent any more
6 horrendous actions from occurring again. And, again, I'm
7 truly sorry and I apologize.

8 THE COURT: Thank you. Mr. Lengeling, anything
9 further?

10 MR. LENGELING: No, Your Honor.

11 THE COURT: Mr. Vang --

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: -- you have been charged with and have
14 pled guilty to a count of obtaining a substance by fraud in
15 violation of 21 U.S.C. 843(a)(3) and 843(d)(1). Based on
16 your guilty plea to that count, it is now time for
17 sentencing.

18 First let me say that sentencing is by far the
19 hardest thing that I do as a judge. I worry over it. I
20 think about it. I have put great consideration into my
21 sentence here today, and I appreciate, Mr. Vang, your
22 statement, as I appreciate the statements of the victim's
23 family in this case to assist in determining what the right
24 sentence is. There is, of course, no sentence that can turn
25 back time, and no sentence that will feel true justice

1 because we cannot turn back time. And that's true for the
2 family as it is for you, Mr. Vang.

3 The legal standard that I must apply is that in
4 determining what sentence to impose, I treat the range in
5 the sentencing guidelines as the starting point and the
6 initial benchmark, as required by *United States v. Gall*. I
7 have not presumed that that guideline range is reasonable.
8 I, instead, consider all of the factors in the sentencing
9 statute, which is 18 U.S.C. 3553(a), including the need for
10 a sentence to be sufficient, but not greater than necessary,
11 to comply with the purposes of the sentencing statute.
12 Those purposes are to consider the nature and the
13 circumstances of the offense, the history and the
14 characteristics of the Defendant, in this case Mr. Vang.

15 And I find that a sentence of 18 months'
16 imprisonment is sufficient, but not greater than necessary,
17 to reflect the seriousness of the offense, to provide just
18 punishment for the offense, to deter you, Mr. Vang, from
19 committing crimes in the future, to deter others from
20 committing crimes in the future, to protect the public, to
21 provide you with further treatment, and to avoid unwarranted
22 disparities between your sentence, Mr. Vang, and the
23 sentences of defendants who are similarly situated.

24 In particular, the Court has taken into account
25 both mitigating and aggravating factors in this case. There

1 are several mitigating factors in this case and they have to
2 do with you, Mr. Vang, and your remorse, your absolute lack
3 of criminal history, how well you have done on supervised
4 release in this Court, your background growing up, and your
5 addiction, which, as you know, provides context for your
6 offense, but does not excuse it.

7 Even given these mitigating factors, the
8 aggravating factors are far greater in this case. The Court
9 is of the view that a guideline sentence is too lenient
10 given the facts and circumstances of this case. It would
11 insufficiently capture the harm that was caused to the
12 victim and her family. It is also insufficient to reflect
13 the seriousness of the offense and to promote respect for
14 the law by other individuals in the same profession or,
15 frankly, any home healthcare aides. This is a profession
16 that is on the rise. There's a great need for home
17 healthcare aides. Our standards for it must be high as
18 well.

19 Your position, Mr. Vang, as a medical professional
20 and indeed as a nurse who took an oath, entrusted with the
21 care of elderly patients and the resulting harm to a patient
22 when that trust is broken, demands a sentence higher than is
23 indicated by the guidelines. This is particularly true here
24 where Mr. Vang went to the house of the victim after no
25 longer employed, misrepresented his employment. That

1 conduct, the conduct that you engaged in was ongoing, so
2 this wasn't a one-time incident, it was ongoing for a number
3 of months. It resulted in significant physical and mental
4 harm and fear to the victim and her husband.

5 Finally, the Court has reviewed the sentences of
6 defendants in this district who are similarly situated, and
7 determined that they received prison sentences as well,
8 including one upward departure as here, so I've determined
9 that the sentence imposed here of 18 months does not result
10 in unwarranted disparities among defendants.

11 It also provides care and treatment for you,
12 Mr. Vang, and I'm glad to see that you have begun your path
13 of recovery. I am glad to see the number of people you have
14 here in support of you, and I will say to them that you're
15 going to continue to need that support, both in prison and
16 while you are on supervised release, and so I'm hopeful that
17 they hear that and can continue to provide you with support
18 on recovery so that this never happens again.

19 That said, I'm going to now formally impose
20 sentence. That will include your supervised release term
21 and the conditions of release. It is as follows:

22 You will be committed to the custody of the Bureau
23 of Prisons for a period of 18 months. I am going to
24 recommend any drug treatment that the Bureau of Prisons has
25 available to it in that time period, and I will recommend

1 that your incarceration be in Minnesota. That is a
2 recommendation that I give, but after I pronounce sentence
3 and commit you to the custody of the Bureau of Prisons, it
4 is their ultimate determination, but I am making that
5 recommendation.

6 No fine is ordered. I would prefer that you pay
7 any amount that comes out of any civil -- any civil case.

8 There is no restitution. It has not been
9 requested.

10 On release from imprisonment, you'll be placed on
11 supervised release for a period of one year. The following
12 mandatory conditions are applicable:

13 You shall not commit any crimes; federal, state,
14 or local.

15 You shall not illegally possess a controlled
16 substance and refrain from unlawful use of a controlled
17 substance. You shall submit to one drug test within 15 days
18 of release from imprisonment, and at least two periodic drug
19 tests thereafter as determined by the Court.

20 You shall cooperate in the collection of DNA as
21 directed by the probation officer.

22 And you shall abide by the standard conditions of
23 supervised release in this district, including reporting to
24 the probation officers within 72 hours of your release from
25 imprisonment unless a probation officer instructs you

1 otherwise.

2 And you shall not own, possess, or have access to
3 any firearm, ammunition, destructive device, or any other
4 dangerous weapon.

5 I'm also imposing the following special conditions
6 during your term of supervised release:

7 You shall have no contact with the victim L.B. and
8 any member of L.B.'s family and L.B.'s address. That
9 includes letters, communication devices, audio or visual
10 devices, visits, any contact through a third party without
11 prior consent of the probation officer.

12 You shall abstain from the use of alcohol and
13 other intoxicants and not frequent establishments whose
14 primary business is the sale of alcoholic beverages. I find
15 that necessary and related to the condition of abstaining
16 from substance abuse.

17 You shall submit to substance abuse testing as
18 approved and directed by the probation officer and shall
19 participate in counseling or treatment program as approved
20 by the probation officer. Again, I know that you've already
21 done that and intend to continue to do that, so my order is
22 simply -- it's an order, but it's intended to help you.
23 That's what supervised release is all about. You shall
24 contribute to the costs of such treatment as determined by
25 the Probation Office, not to exceed the total cost of

1 treatment.

2 There is a \$100 special assessment for the Crime
3 Victims Fund required to be paid immediately.

4 Mr. Vang, you have the right to appeal your
5 conviction. If you believe that your guilty plea was
6 unlawful or invalid for any reason, you have the right to
7 appeal your sentence if you believe it was contrary to law.
8 If you wish to appeal your conviction, your sentence or
9 both, you must do so within 14 days after entry of judgment
10 of conviction in this case. If you cannot afford to pay the
11 costs of an appeal, you may ask for permission to do so *in*
12 *forma pauperis*, or without paying any fees or costs. And if
13 you make such a request, the clerk of court will file a
14 Notice of Appeal on your behalf.

15 The Presentence Investigation Report will be kept
16 in the Court's files under seal. If you file an appeal, the
17 Presentence Investigation Report will be delivered to the
18 United States Court of Appeals for the Eighth Circuit.

19 In this case, the sentencing -- or the letters
20 related to sentencing and victim impact have been given as
21 testimony. Does either party wish that this testimony be
22 under seal?

23 MR. NELSON: Not from the Government, Your Honor.

24 THE COURT: Mr. Lengeling?

25 MR. LENGELING: No. No.

1 THE COURT: All right. Then the transcript will
2 be not sealed.

3 Mr. Vang, you are currently on release. You have
4 made a motion for voluntary surrender. Does the Government
5 object to voluntary surrender in this case?

6 MR. NELSON: Your Honor, probation is also
7 recommending voluntary surrender. At this point the
8 Government has no evidence to contradict or to suggest that
9 the Defendant is likely to flee or pose a danger to the
10 community if continuing on release, therefore, I do not
11 object to a self-surrender date. And I think it would be
12 reasonable for the Court to select a date sometime after the
13 holidays.

14 THE COURT: One moment. I will allow for
15 voluntary surrender on Wednesday, January 8th.

16 And I apologize. I missed a special condition of
17 supervised release. So in addition to the special
18 conditions of supervised release that I have already
19 pronounced, I am including a prohibition from engaging in
20 employment or service in the medical or pharmaceutical field
21 during the period of supervision.

22 So, Mr. Vang, you're ordered to surrender for
23 service of your sentence at the institution which will be
24 designated by the Bureau of Prisons by 2:00 on Wednesday,
25 January 8th, 2020, as notified by the Probation and Pretrial

1 Services Office. In the event there's been no designation,
2 you would surrender to the United States Marshal, and
3 Mr. Lengeling can help you through that, as well as
4 probation.

5 Mr. Nelson, is there anything else for the
6 Government?

7 MR. NELSON: No. Thank you, Your Honor.

8 THE COURT: Mr. Lengeling, anything else from the
9 defense?

10 MR. LENGELING: I don't anticipate an appeal, but
11 just let the record reflect that we do have an objection to
12 the sentence, Your Honor.

13 THE COURT: Understood. Thank you.

14 From probation, is there anything further that the
15 Court needs to address?

16 THE PROBATION OFFICER: No, Your Honor. Thank
17 you.

18 THE COURT: Thank you. I appreciate you all being
19 here today. I know you were all here for different and
20 varying reasons, and it is no small thing right before a
21 holiday to be here in support of a family or a defendant,
22 and I appreciate all of your presence here today. Thank
23 you. Court is adjourned. Good luck, Mr. Vang.

24 (Court adjourned at 4:16 p.m.)

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3 I, Erin D. Drost, certify that the foregoing is a
4 correct transcript from the record of proceedings in the
5 above-entitled matter.

6
7 Certified by: s/ Erin D. Drost

8 Erin D. Drost, RMR-CRR
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ERIN D. DROST, RMR-CRR
(651) 848-1227